

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JEFFERY MULLINS,

Plaintiff,

V.

MEDINA COUNTY, TEXAS; and

WESLEY WILLIAMS,

Defendants.

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CIVIL ACTION NO. SA-21-CA-1292-FB

**ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Before the Court are the Report and Recommendation of United States Magistrate Judge (docket no. 54) concerning Defendants' Motion to Dismiss Plaintiff's First Amended Complaint, along with written objections thereto filed by Plaintiff (docket no. 58) and Defendants (docket no. 56), and Defendants' response (docket no. 63) in opposition to Plaintiff's objections. Plaintiff's brings a *Monell* claim against Medina County and a 42 U.S.C. § 1983 excessive force claim against Deputy Williams.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of the Report and Recommendation. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether it is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report and Recommendation to which objection is made requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will make an independent assessment of the law. The Court need not, however, conduct a de novo review

when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

The Court has thoroughly analyzed the parties' submissions in light of the entire record. As required by Title 28 U.S.C. § 636(b)(1)(c), the Court has conducted an independent review of the entire record in this cause and has conducted a de novo review with respect to those matters raised by the objections. After due consideration, the Court concludes the objections lack merit.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge (docket no. 54) is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that Defendants' Motion to Dismiss Plaintiff's First Amended Complaint (docket no. 43) is GRANTED in PART and DENIED in PART. The motion is granted such that Plaintiff's excessive force claim against Deputy Williams is dismissed based on Deputy Williams' assertion of qualified immunity. The motion is in all other respects denied, and Plaintiff's *Monell* claim against Medina County remains pending for disposition. This case remains referred to the Magistrate Judge for further pretrial proceedings.

It is so ORDERED.

SIGNED this 23rd day of August, 2023.



FRED BIERY
UNITED STATES DISTRICT JUDGE